



U.S. Department of Justice

Executive Office for Immigration Review

*Board of Immigration Appeals
Office of the Clerk*

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

GUTIERREZ SOTO, EMILIO
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EL PASO PROCESSING CENTER
8915 MONTANA AVENUE
EL PASO, TX 79925

DHS/ICE Office of Chief Counsel - ELP
11541 Montana Ave , Suite O
El Paso, TX 79936

Name: GUTIERREZ SOTO, EMILIO
Riders: [REDACTED]

A [REDACTED]

Date of this notice: 5/15/2018

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Panel Members:
Guendelsberger, John

LuisegoS
Userteam: Docket

Falls Church, Virginia 22041

Files: [REDACTED] - El Paso, TX

Date: MAY 15 2018

In re: Emilio GUTIERREZ SOTO
Oscar GUTIERREZ SOTO

IN REMOVAL PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENTS: Eduardo Beckett, Esquire

ON BEHALF OF DHS: Stephany Miranda
Assistant Chief Counsel

APPLICATION: Asylum; withholding of removal; Convention Against Torture

The respondents have appealed¹ the Immigration Judge's decision of July 19, 2017, in which the Immigration Judge denied their application for asylum, withholding of removal, and protection under the Convention Against Torture. The respondents also seek reopening based on additional evidence. The Department of Homeland Security opposes the appeal and the remand request. The motion to remand will be granted and the record remanded for further proceedings.

The Immigration Judge found the lead respondent was not credible, based on inconsistencies and implausibilities in his testimony as well as the limited corroborative evidence submitted. The respondent and amici curiae have now submitted additional evidence addressing these concerns, much of which was allegedly previously unavailable to the respondent. While the Board does not ordinarily address evidence for the first time on appeal, we will remand for consideration of newly available, material evidence. 8 C.F.R. § 1003.1(d)(3)(iv); *Matter of Coelho*, 20 I&N Dec. 464 (BIA 1992). Given the arguments and evidence proffered on appeal, we will remand this matter to permit the Immigration Judge to address this new evidence in the first instance and issue a new decision.

ORDER: The record is remanded to the Immigration Judge for further proceedings consistent with the foregoing opinion and for the entry of a new decision.



FOR THE BOARD

¹ The respondents' appeal was originally dismissed as untimely filed. The Board subsequently reopened and reinstated this appeal on December 22, 2017.